

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-26069 - APPLICANT/OWNER: RONALD REISS FAMILY TRUST

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to the conditions for Special Use Permit (SUP-3254) if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This request is for a Variance to allow a proposed block wall to be six foot in height within the front yard setback where a two foot solid wall with an additional three feet at 50% open is the maximum height permitted. The wall is proposed to be built on lot number four of a four lot subdivision located on the northeast corner of O'Bannon Drive and Tenaya Way.

An identical Variance (VAR-25560) will be heard for lot one. As this is a self-imposed hardship because a wall can be built to the standards of Title 19.12 on the subject site, staff recommends denial.

BACKGROUND INFORMATION

| <i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i> | |
|--|---|
| 1/07/04 | The City Council approved a Vacation (VAC-3255) request to vacate a 33-foot wide U.S. Government Patent Easement generally located north of O'Bannon Drive and east of Tenaya Way. The Planning Commission and Staff recommended approval. |
| 01/07/04 | The City Council approved a request for a Special Use Permit (SUP-3254) and a Waiver of Title 18.12.160 (Street Intersection Offset Requirements) for a private street within a proposed single-family residential development on 2.13 acres adjacent to the northeast corner of Tenaya Way and O'Bannon Drive. The Planning Commission and Staff recommended approval. |
| 01/22/04 | The Planning Commission approved a request for a Tentative Map (TMP-3458) for a 4 lot single family residential subdivision (Reiss Subdivision) on 2.13 acres adjacent to the northeast corner of Tenaya Way and O'Bannon Drive. |
| 08/19/05 | A Request for a Final Map Technical Review (FMP-8254) of Reiss Subdivision for a 4 lot single family residential subdivision on 2.13 acres adjacent to the northeast corner of Tenaya Way and O'Bannon Drive, was approved by the Planning and Development Department. Map recorded on 01/20/2006. |
| <i>Related Building Permits/Business Licenses</i> | |
| There are no relevant City actions regarding the licensing or permitting of this property located on the northeast corner of O'Bannon Drive and Tenaya Way in the Reiss Subdivision. | |
| <i>Pre-Application Meeting</i> | |
| 11/07/07 | Applicant was informed front of lot is narrowest side. The homes on lots one and four will face into the subdivision, which is the wider side of the lots. Advised applicant of submittal requirements and closing and meeting dates. |

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| <i>Neighborhood Meeting</i> | |
|---|---|
| A neighborhood meeting is not required, nor was one held. | |
| <i>Field Check</i> | |
| 12/13/07 | Retaining walls are currently being built on the lots, six courses at the tallest or approximately four feet. |

| <i>Details of Application Request</i> | |
|--|------|
| <i>Site Area</i> | |
| Net Acres | 0.47 |

| Surrounding Property | Existing Land Use | Planned Land Use | Existing Zoning |
|-----------------------------|--------------------------|-------------------------|-------------------------|
| Subject Property | Residential | DR (Desert Rural) | R-E (Residence Estates) |
| North | Residential | DR (Desert Rural) | R-E (Residence Estates) |
| South | Residential | DR (Desert Rural) | R-E (Residence Estates) |
| East | Residential | DR (Desert Rural) | R-E (Residence Estates) |
| West | Residential | DR (Desert Rural) | R-E (Residence Estates) |

General Plan Compliance

The subject site is located within the Southwest Sector of the General Plan with a DR (Desert Rural Density) land use designation, which allows a maximum density of two developed units per acre. The existing R-E (Residence Estates) zoning district is consistent with the DR designation, and the proposed residential development with private streets is a permitted use with an approved Special Use Permit.

| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
|---|-------------------|------------------|--------------------------|
| Special Area Plan | | | |
| <i>Special Districts/Zones</i> | <i>Yes</i> | <i>No</i> | <i>Compliance</i> |
| Special Purpose and Overlay Districts | X | | |
| Trails | | X | N/A |
| Rural Preservation Overlay District | X | | Y |
| Development Impact Notification Assessment | | X | N/A |
| Project of Regional Significance | | X | N/A |

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Rural Preservation Neighborhood

The subject site falls within a Rural Preservation Neighborhood 330-foot buffer zone. The Rural Preservation Neighborhood designated parcels surround the subject site and are located within the City of Las Vegas. Nevada Revised Statute 278 limits residential development within this 330-foot buffer zone to an average density of three residential dwelling units per acre. The development's proposed density of 1.86 dwelling units per acre is within the parameters of the rural preservation neighborhood legislation.

DEVELOPMENT STANDARDS

Applicable code section 19.08

| <i>Standard</i> | <i>Required/Allowed</i> | <i>Provided</i> | <i>Compliance</i> |
|-----------------|-------------------------|----------------------------|-------------------|
| Min. Lot Size | 20,000 sf | 20,301 sf | Y |
| Min. Lot Width | 100 feet | 92.40 Front 107.36 Rear | N |
| Min. Setbacks | | | |
| • Front | 50 feet | | N/A |
| • Side | 10 feet | | N/A |
| • Corner | 15 feet | | N/A |
| • Rear | 35 feet | | N/A |

ANALYSIS

The subject parcel is within a four lot subdivision and is surrounded by homes on half acre lots. Plans have not been submitted for the detached single-family homes to be constructed on the lots. A 65 foot wide private street provides entrance to the gated subdivision. The street width narrows to 37 feet before ending in a cul-de-sac (Bernadine Court).

The six foot block wall is proposed to be built on lot number four. This lot has frontage on O'Bannon Drive and Bernadine Court. Title 18.04.230 defines the "front" of a parcel as the side which has the lesser dimension in width. Thus, the narrow side or "front" of lot four is on O'Bannon Drive, where a block wall shall be a maximum of five feet in height consisting of a two foot solid wall with an additional three feet at 50% open. Title 19.12.075 specifically states: No screening wall shall be built in the front yard of a residential property.

The applicant states when a home is constructed on this lot it will front onto, and have access from the private street (Bernadine Court). The future homeowner will consider the O'Bannon side to be the side yard and will want a six foot screen wall on that portion of the lot.

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FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by building a solid six foot wall in the front yard where a maximum height of five feet is allowed. Alternative is to build a block wall in the front yard of lot four which would be in conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 122

APPROVALS 1

PROTESTS 0